



TESTIMONY IN OPPOSITION TO 2026—H 7650 & 2026—H 8072¹

Mandatory sentences such as those created by this legislation, that require judges to impose a fixed punishment for certain crime, are widely criticized for several structural reasons. The core issue is that they remove judicial discretion, which is essential for fair and proportionate justice. Here's why that can be a problem:

- One-size-fits-all punishment. Crimes that look similar on paper can be very different in reality. Judges normally weigh factors like intent, background, and circumstances. Mandatory sentencing ignores these differences, so:
 - A first-time offender and a repeat offender may receive the same sentence
 - Minor involvement in a crime can be punished as harshly as major involvement
 - This can lead to punishments that feel disproportionate or unjust.
 - Shifts power away from judges to prosecutors
- When judges lose discretion, prosecutors gain it:
 - Prosecutors decide what charges to file
 - Those charges often determine the mandatory sentence
 - This means outcomes can depend heavily on prosecutorial strategy (or leverage in plea bargaining), rather than a neutral judge's assessment.
- Encourages coercive plea bargains. Because mandatory sentences are often severe, defendants may feel pressured to plead guilty—even if they might have a valid defense—to avoid the risk of a much harsher penalty after trial.
- Contributes to mass incarceration. In countries like the United States, mandatory minimums—especially for drug offenses—have been a major driver of prison population growth, often without clear evidence of improved public safety.

¹ Specifically, opposition is to the language at:

- 2026—H 7650, page 6, lines 28-31
- 2026—H 8072, page 5, lines 22-25

The nearly identical language in both pieces of legislation require that the sentence for the crime created by each be imposed consecutively to the underlying offense and forbid the suspension or deferment of sentence.

- Disproportionate impact on marginalized groups. These laws can amplify existing inequalities:
 - Communities already more heavily policed are more likely to face mandatory charges
 - Less access to strong legal defense can worsen outcomes
- Removes individualized justice. Judges are trained to balance punishment with rehabilitation, deterrence, and fairness. Mandatory sentencing strips away that balancing role, turning sentencing into a mechanical process rather than a reasoned judgment.
- Finally, mandatory sentences are a false promise. They aim to create consistency and toughness on crime, but they often do so at the cost of fairness, proportionality, and judicial independence. A sensible argument can be made that a justice system works best when judges retain the ability to tailor sentences to the specifics of each case.

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